

1 S.98

2 An act relating to Green Mountain Care Board authority over prescription drug
3 costs **and the Green Mountain Care Board nomination and appointment**
4 **process**

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 Sec. 1. GREEN MOUNTAIN CARE BOARD; PRESCRIPTION DRUG

7 COST REGULATION PROGRAM; IMPLEMENTATION PLAN

8 (a) The Green Mountain Care Board, in consultation with its own technical
9 advisory groups and other State agencies, shall explore and create a framework and
10 methodology for implementing a program to regulate the cost of prescription drugs
11 for Vermont consumers and Vermont’s health care system. The Board shall consider
12 options for and likely impacts of regulating the cost of prescription drugs, including:

13 (1) the experiences of states that have developed prescription drug affordability
14 boards;

15 (2) the Centers for Medicare and Medicaid Services’ development and
16 operation of the Medicare Drug Price Negotiation Program;

17 (3) other promising federal and state strategies for lowering prescription drug
18 costs;

19 (4) the Board’s existing authority to set rates, adopt rules, and establish
20 technical advisory groups;

21 (5) the likely return on investment of the most promising program options; **and**

22 **the potential impacts on Vermonters’ access to medications; and**

1 (7) the impact of implementing a program to regulate the costs of prescription
2 drugs on other State agencies and on the private sector.

3 (b)(1) On or before January 15, 2025, the Board shall provide its preliminary plan
4 for implementing a program to regulate the cost of prescription drugs in Vermont, and
5 any proposals for legislative action needed to implement the program, to the House
6 Committee on Health Care and the Senate Committee on Health and Welfare.

7 (2) On or before January 15, 2026, the Board shall provide its final plan for
8 implementing a program to regulate the cost of prescription drugs in Vermont, along
9 with proposals for addressing any additional identified legislative needs, to the House
10 Committee on Health Care and the Senate Committee on Health and Welfare.

11 (c)(1) The following permanent classified positions are created at the Green
12 Mountain Care Board to lead the exploration, development, and implementation of
13 the prescription drug regulation program:

14 (A) one Director of Prescription Drug Pricing; and

15 (B) one Policy Analyst Prescription Drug Pricing.

16 (2) The sum of \$245,000.00 is appropriated to the Green Mountain Care Board
17 from the Evidence-Based Education and Advertising Fund in fiscal year 2025 for the
18 positions created in this subsection.

19 (d)(1) The Green Mountain Care Board shall have legal assistance as needed from
20 the Office of the Attorney General.

1 (2) The sum of \$250,000.00 is appropriated to the Green Mountain Care Board
2 from the Evidence-Based Education and Advertising Fund in fiscal year 2025 to
3 contract with experts on prescription drug-related issues to assist the Board in its
4 work under this section.

5 Sec. 2. 33 V.S.A. § 2004 is amended to read:

6 § 2004. MANUFACTURER FEE

7 (a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs
8 that are paid for by the Department of Vermont Health Access for individuals
9 participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of
10 Human Services. The fee shall be 1.75 percent of the previous calendar year's
11 prescription drug spending by the Department and shall be assessed based on
12 manufacturer labeler codes as used in the Medicaid rebate program.

13 (b) Fees collected under this section shall fund collection and analysis of
14 information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and
15 4633; analysis of prescription drug data needed by the Office of the Attorney General
16 for enforcement activities; the Vermont Prescription Monitoring System established
17 in 18 V.S.A. chapter 84A; the evidence-based education program established in 18
18 V.S.A. chapter 91, subchapter 2; the Green Mountain Care Board's prescription drug
19 cost regulation initiatives; statewide unused prescription drug disposal initiatives;
20 prevention of prescription drug misuse, abuse, and diversion; the Substance Misuse
21 Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803;

1 treatment of substance use disorder; exploration of nonpharmacological approaches to
2 pain management; a hospital antimicrobial program for the purpose of reducing
3 hospital-acquired infections; the purchase and distribution of fentanyl testing strips;
4 the purchase and distribution of naloxone to emergency medical services personnel;
5 and any opioid-antagonist education, training, and distribution program operated by
6 the Department of Health or its agents. The fees shall be collected in the Evidence-
7 Based Education and Advertising Fund established in section 2004a of this title.

8 (c) The Secretary of Human Services or designee shall ~~make~~ adopt rules for the
9 implementation of this section.

10 (d) The Department shall maintain on its website a list of the manufacturers who
11 have failed to provide timely payment as required under this section.

12 Sec. 3. 33 V.S.A. § 2004a is amended to read:

13 § 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

14 (a) The Evidence-Based Education and Advertising Fund is established in the
15 State Treasury as a special fund to be a source of financing for activities relating to
16 fund collection and analysis of information on pharmaceutical marketing activities
17 under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by
18 the Office of the Attorney General for enforcement activities; for the Vermont
19 Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the
20 evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2;
21 for the Green Mountain Care Board's prescription drug cost regulation initiatives; for

1 statewide unused prescription drug disposal initiatives; for the prevention of
2 prescription drug misuse, abuse, and diversion; for the Substance Misuse Prevention
3 Oversight and Advisory Council established in 18 V.S.A. § 4803; for treatment of
4 substance use disorder; for exploration of nonpharmacological approaches to pain
5 management; for a hospital antimicrobial program for the purpose of reducing
6 hospital-acquired infections; for the purchase and distribution of fentanyl testing
7 strips; for the purchase and distribution of naloxone to emergency medical services
8 personnel; and for the support of any opioid-antagonist education, training, and
9 distribution program operated by the Department of Health or its agents. Monies
10 deposited into the Fund shall be used for the purposes described in this section.

11 * * *

12 **Sec. 4. 18 V.S.A. chapter 220 is amended to read: (NEW SECTION)**

13 CHAPTER 220. GREEN MOUNTAIN CARE BOARD

14 * * *

15 § 9374. BOARD MEMBERSHIP; AUTHORITY

16 * * *

17 (b)(1) The ~~initial~~ term of each member of the Board, including the Chair, shall be
18 ~~seven years, and the term of the Chair shall be six years thereafter.~~

19 (2) ~~The term of each member other than the Chair shall be six years, except~~
20 ~~that of the members first appointed, one each shall serve a term of three years, four~~

1 ~~years, five years, and six years~~ Any appointment to fill a vacancy shall be for the
2 unexpired portion of the term vacated.

3 (3) ~~Subject to the nomination and appointment process, a~~ A member may serve
4 more than one term. A member may be reappointed to additional terms subject to the
5 requirements of section 9391 of this title.

6 * * *

7 § 9390. GREEN MOUNTAIN CARE BOARD NOMINATING
8 COMMITTEE CREATED; COMPOSITION

9 * * *

10 (f) ~~The Board is authorized to use the staff and services of appropriate State~~
11 ~~agencies and departments as necessary to conduct investigations of applicants~~ The
12 Committee shall have the administrative, technical, and legal assistance of the
13 Department of Human Resources.

14 § 9391. NOMINATION AND APPOINTMENT PROCESS

15 (a) ~~Whenever~~ Candidate selection process.

16 (1) Unless a vacancy is filled by reappointment by the Governor pursuant to
17 subsection (c) of this section, not later than 90 days prior to a known vacancy ~~occurs~~
18 occurring on the Green Mountain Care Board, or when an incumbent does not declare
19 that he or she will be a candidate to succeed himself or herself, the Green Mountain
20 Care Board Nominating Committee shall commence its nomination application
21 process. The Committee shall select for consideration ~~by the Committee~~, by majority

1 vote; and provided that a quorum is present, from the applications for membership on
2 the Green Mountain Care Board as many candidates as it deems qualified for the
3 position or positions to be filled. The Committee shall base its determinations on the
4 qualifications set forth in section 9392 of this ~~section~~ title.

5 (2) A Board member who is resigning from the Board prior to the expiration of
6 the member's term shall notify the Committee Chair, the Governor, and the
7 Department of Human Resources of the member's anticipated resignation date. Once
8 notified, the Committee Chair shall commence the nomination application process as
9 soon as is practicable in light of the anticipated resignation date.

10 (b) Nomination list. The Committee shall submit to the Governor the names of
11 the ~~persons~~ individuals it deems qualified to be appointed to fill the position or
12 positions and the name of any incumbent member who was not reappointed pursuant
13 to subsection (c) of this section and who declares notifies the Committee Chair, the
14 Governor, and the Department of Human Resources that he or she the incumbent
15 wishes to be a candidate to succeed himself or herself nominated. An incumbent
16 shall not be required to submit an application for nomination and appointment to the
17 Committee under subsection (a) of this section, but the Committee may request that
18 the incumbent update relevant information as necessary.

19 (c) Reappointment; notification.

1 (1) Not later than 120 days prior to the end of a Board member’s term, the
2 member shall notify the Governor that the member either is seeking to be reappointed
3 by the Governor for another term or that the member does not wish to be reappointed.

4 (2) If a Board member who is seeking reappointment is not reappointed by the
5 Governor on or before 30 days after notifying the Governor, the member’s term shall
6 end on the expiration date of the member’s current term, unless the member is
7 nominated as provided in subsection (b) of this section and subsequently appointed,
8 or as otherwise provided by law.

9 (3) A Board member’s reappointment shall be subject to the consent of the
10 Senate.

11 (d) The Appointment; Senate consent. Unless the Governor reappointed a Board
12 member pursuant to subsection (c) of this section, the Governor shall make an
13 appointment to the Green Mountain Care Board from the list of qualified candidates
14 submitted pursuant to subsection (b) of this section not later than 45 days after receipt
15 of the candidate list. The appointment shall be subject to the consent of the Senate.

16 The names of candidates submitted and not selected shall remain confidential.

17 ~~(d)~~(e) Confidentiality. All proceedings of the Committee, including the names of
18 candidates considered by the Committee and information about any candidate
19 submitted by any source, shall be confidential.

20 Sec. **5**. **EFFECTIVE DATES**

- 1 **(a) Sec. 4 (18 V.S.A. chapter 220; Green Mountain Care Board nomination**
2 **and appointment process) and this section shall take effect on passage.**
3 **Notwithstanding any provision of 18 V.S.A. chapter 220, as amended by this act,**
4 **to the contrary, the Green Mountain Care Board Nominating Committee, in**
5 **consultation with the Green Mountain Care Board, the Department of Human**
6 **Resources, and the Governor, may establish alternative timing requirements for**
7 **applications, appointments, and reappointments to the Board for Board**
8 **vacancies anticipated to occur or otherwise occurring on or before December 31,**
9 **2024 if the timelines established in 18 V.S.A. chapter 220, as amended by this**
10 **act, would be impractical or impossible to meet.**
11 **(b) The remaining sections ~~This act~~ shall take effect on July 1, 2024.**